

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

BARBARA S. LEWIS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 2:07-cv-18-MHT
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

UNOPPOSED MOTION TO EXTEND UNITED STATES' DEADLINE  
TO RESPOND TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

The United States of America, by its undersigned counsel, respectfully moves to extend the deadline for responding to plaintiff's Motion for Summary Judgment for 60 days, up to and including Monday, July 2, 2007, and in support thereof states the following grounds:

1. Plaintiff filed her Complaint on January 4, 2007. The United States filed its Answer on March 8, 2007.
2. On March 16, 2007, the Court issued a Scheduling Order setting a pretrial conference for December 20, 2007, the deadline for submission of dispositive motions as September 21, 2007, and the discovery deadline as October 22, 2007.
3. On April 11, 2007, plaintiff filed a summary judgment motion and memorandum in support thereof. The Court set May 2 as the deadline for the United States' response to plaintiff's motion.
4. Plaintiff's motion included the affidavit of plaintiff and a small number of supporting documents.

5. Based on current information, the United States believes that settlement of this matter is likely and will become more likely after the United States has obtained additional information from plaintiff. Counsel for the United States has requested from plaintiff documents which, if provided, may resolve this matter. Once additional information has been obtained, the United States intends to actively pursue settlement negotiations.

6. Moreover, if settlement is unsuccessful, pursuant to Fed. R. Civ. P. 56(f) and for the reasons stated in the attached Declaration of Gregory L. Jones (Exhibit 1), the United States seeks additional time to conduct discovery as to facts which will determine whether an opposition to plaintiff's motion is justified.

7. Counsel for the United States has conferred with plaintiff's counsel regarding this motion. He agrees to the 60-day extension requested herein.

WHEREFORE, the United States respectfully requests that the Court extend the deadline for responding to plaintiff's summary judgment motion up to and including Monday, July 2, 2007.

Respectfully submitted,

LEURA GARRETT CANARY  
United States Attorney

/s/ Gregory L. Jones  
GREGORY L. JONES  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 20th day of April, 2007, I electronically filed the foregoing Unopposed Motion to Extend United States' Deadline to Respond to Plaintiff's Motion for Summary Judgment with the Clerk of the Court using the CM/ECF system, which will send notice of the foregoing to the following:

James Middleton Sizemore, Jr.  
792 Commerce Drive, Suite 104  
Alexander City, AL 35010

/s/ Gregory L. Jones  
Trial Attorney, Tax Division  
U.S. Department of Justice  
Post Office Box 14198  
Ben Franklin Station  
Washington, D.C. 20044

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UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

DECLARATION OF GREGORY L. JONES

I, Gregory L. Jones hereby declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am trial counsel for the United States in the above-captioned proceeding.
2. On April 11, 2007, plaintiff filed a summary judgment motion, along with an affidavit claiming that her two daughters, AR and SR, were minors in 2003 and lived with her the entire year.
3. At this time, the United States lacks information as to plaintiff's relationship to the two children, AR and SR, referenced in her affidavit and their living circumstances in 2003. These facts reflect on elements of plaintiff's claim to an earned income credit pursuant to 26 U.S.C. § 32(a).
4. In order to respond to plaintiff's motion, the United States needs to take discovery as to the facts referenced in paragraph 3 above.

5. The United States is requesting an extension of the time to respond to plaintiff's motion for summary judgment pursuant to Fed. R. Civ. P. 56(f) because the United States cannot present by affidavit facts essential to justify opposition to the motion at this time.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19th day of April, 2007.

/s/ Gregory L. Jones  
GREGORY L. JONES  
Trial Attorney, Tax Division  
U.S. Department of Justice